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DRAFT TREATY

OF

FRIENDSHIP, COMMERCE AND NAVIGATION

BETWEEN THE

UNITED STATES OF AMERICA

AND THE

REPUBLIC OF NICARAGUA

MARCH 15, 1955

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY ECrowley DATE 4-21-83

and agencies; and shall be permitted to exercise all these rights and privileges, in conformity with the applicable laws and regulations, upon terms no less favorable than the terms which are or may hereafter be accorded to the nationals, corporations and associations of the other High Contracting Party and no less favorable than are or may hereafter be accorded to the nationals, corporations and associations of any third country. Moreover, corporations and associations of either High Contracting Party which are not engaged in business or in non-profit activities within the territories of the other High Contracting Party shall be permitted to exercise the rights and privileges accorded by the preceding sentence without any requirement of registration or domestication.

Article VI

The dwellings, warehouses, factories, shops, and other places of business, and all premises thereto appertaining, of the nationals, corporations and associations of either High Contracting Party, located in the territories of the other High Contracting Party, shall not be subject to unlawful entry or molestation. There shall not be made any visit to, or any search of, any such dwellings, buildings or premises, nor shall any books, papers or accounts therein be examined or inspected, except under conditions and in conformity with procedures no less favorable than the conditions and procedures prescribed for nationals, corporations and associations of such other High Contracting Party under the applicable laws and regulations within the territories thereof. In no case shall the nationals, corporations or associations of either High Contracting Party in the territories of the other High Contracting Party be treated less favorably with respect to the foregoing matters than the nationals, corporations or associations of any third country. Moreover, any visit, search, examination or inspection which may be permissible under the exception stated in this Article shall made[1] with due regard for, and in such a way as to cause the least possible interference with, the occupants of such dwellings, buildings or premises or the ordinary conduct of any business or other enterprise.

Article VII

1. The nationals, corporations and associations of either High Contracting Party shall be permitted to acquire, own and dispose of immovable property or interests therein within the territories of the other High Contracting Party upon the following terms:

(*a*) in the case of nationals, corporations and associations of the Italian Republic, the right to acquire, own and dispose of such property and interests shall be dependent upon the laws and regulations which are or may hereafter be in force within the state, territory or possession of the United States of America wherein such property or interests are situated; and

[1] The words "shall made" should read "shall be made".

come convenuti per la tutela dei loro diritti; saranno liberi di scegliere ed impiegare avvocati e rappresentanti per la tutela dei loro diritti, sia come attori che come convenuti, innanzi tali autorità giudiziaria ordinaria e tribunali ed autorità amministrativi; e avranno facoltà di esercitare tutti questi diritti e privilegi, in conformità alle leggi ed ai regolamenti vigenti, a condizioni non meno favorevoli di quelle accordate o che potranno essere accordate in avvenire ai cittadini e alle persone giuridiche ed associazioni dell'altra Alta Parte Contraente e non meno favorevoli di quelle accordate o che potranno essere accordate in avvenire ai cittadini e alle persone giuridiche ed associazioni di qualsiasi terzo Paese. Inoltre, le persone giuridiche ed associazioni di ciascuna Alta Parte Contraente che non svolgano attività d'affari o attività senza scopo di lucro entro i territori dell'altra Alta Parte Contraente, avranno facoltà di esercitare i diritti ed i privilegi concessi a tenore della frase precedente senza che venga richiesta alcuna registrazione o altra analoga formalità.

Articolo VI

Le abitazioni, i magazzini, le fabbriche, i negozi ed altri luoghi destinati al disbrigo d'affari nonchè tutti i locali ad essi pertinenti, dei cittadini e delle persone giuridiche ed associazioni di ciascuna Alta Parte Contraente, situati nei territori dell'altra, non saranno soggetti a molestie o ad accessi non consentiti dalla legge. Non saranno effettuate visite o perquisizioni in tali abitazioni, edifici o locali, nè saranno esaminati o sottoposti ad ispezione libri, carte e conti che vi si trovino, salvo che nelle condizioni ed in conformità a procedure non meno favorevoli delle condizioni e delle procedure prescritte per i cittadini e per le persone giuridiche ed associazioni di detta altra Alta Parte Contraente, a norma delle leggi e dei regolamenti vigenti nei territori della medesima. I cittadini o le persone giuridiche ed associazioni di ciascuna Alta Parte Contraente non saranno in alcun caso trattati, nei territori dell'altra Alta Parte Contraente, in modo meno favorevole, per quanto riguarda le materie che precedono, dei cittadini o delle persone giuridiche ed associazioni di qualsiasi terzo Paese. Inoltre, qualunque visita, perquisizione, esame od ispezione che possa essere lecita in conformità all'eccezione disposta dal presente Articolo, sarà effettuata, nei confronti degli occupanti di dette abitazioni, edifici o locali o della condotta ordinaria di qualsiasi affare od altra impresa, con il debito riguardo e in maniera da causare il minore disturbo possibile.

Articolo VII

1. I cittadini e le persone giuridiche ed associazioni di ciascuna Alta Parte Contraente avranno facoltà di acquistare, possedere e disporre di beni immobili o di altri diritti reali nei territori dell'altra Alta Parte Contraente alle seguenti condizioni:

a) nel caso di cittadini e di persone giuridiche ed associazioni della Repubblica Italiana, il diritto di acquistare, possedere e disporre di tali beni e diritti dipenderà dalle leggi e regolamenti che sono o che potranno essere in vigore in avvenire nello Stato, territorio o possedimento degli Stati Uniti d'America dove sono situati i beni o dove esistono i diritti di cui trattasi; e

The United States of America and the Republic of Nicaragua, desirous of strengthening the bonds of peace and friendship traditionally existing between them and of encouraging closer economic and cultural relations between their peoples, and being cognizant of the contributions which may be made toward these ends by arrangements encouraging mutually beneficial investments, promoting mutually advantageous commercial intercourse and otherwise establishing mutual rights and privileges, have resolved to conclude a Treaty of Friendship, Commerce and Navigation, based in general upon the principles of national and of most-favored-nation treatment unconditionally accorded, and for that purpose have appointed as their Plenipotentiaries,

The President of the United States of America:

Thomas E. Whelan, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Nicaragua,

and

The President of the Republic of Nicaragua:

Oscar Sevilla Sacasa, Minister of Foreign Affairs of Nicaragua,

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following Articles:

Article I

4. In general, any control imposed by either High Contracting Party over financial transactions shall be so administered as not to influence disadvantageously the competitive position of the commerce or investment of capital of the other High Contracting Party in comparison with the commerce or the investment of capital of any third country.

Article XVIII

1. If either High Contracting Party establishes or maintains a monopoly or agency for the importation, exportation, purchase, sale, distribution or production of any article, or grants exclusive privileges to any agency to import, export, purchase, sell, distribute or produce any article, such monopoly or agency shall accord to the commerce of the other High Contracting Party fair and equitable treatment in respect of its purchases of articles the growth, produce or manufacture of foreign countries and its sales of articles destined for foreign countries. To this end, the monopoly or agency shall, in making such purchases or sales of any article, be influenced solely by considerations, such as price, quality, marketability, transportation and terms of purchase or sale, which would ordinarily be taken into account by a private commercial enterprise interested solely in purchasing or selling such article on the most favorable terms. If either High Contracting Party establishes or maintains a monopoly or agency for the sale of any service or grants exclusive privileges to any agency to sell any service, such monopoly or agency shall accord fair and equitable treatment to the other High Contracting Party and to the nationals, corporations and associations and to the commerce thereof in respect of transactions involving such service as compared with the treatment which is or may hereafter be accorded to any third country and to the nationals, corporations and associations and to the commerce thereof.

2. Each High Contracting Party, in the awarding of concessions and other contracts, and in the purchasing of supplies, shall accord fair and equitable treatment to the nationals, corporations and associations and to the commerce of the other High Contracting Party as compared with the treatment which is or may hereafter be accorded to the nationals, corporations and associations and to the commerce of any third country.

3. The two High Contracting Parties agree that business practices which restrain competition, limit access to markets or foster monopolistic control, and which are engaged in or made effective by one or more private or public commercial enterprises or by combination, agreement or other arrangement among public or private commercial enterprises may have harmful effects upon the commerce between their respective territories. Accordingly, each High Contracting Party agrees upon the request of the other High Contracting Party to consult with respect to any such practices and to take such measures as it deems appropriate with a view to eliminating such harmful effects.

4. In generale, qualsiasi controllo imposto su operazioni finanziarie da ciascuna Alta Parte Contraente sarà esercitato in modo tale da non influire svantaggiosamente sui rapporti di concorrenza commerciale o di investimenti di capitale dell'altra Alta Parte Contraente nei confronti del commercio o degli investimenti di capitale di qualsiasi terzo Paese.

Articolo XVIII

1. Qualora una delle due Alte Parti Contraenti istituisca o mantenga un monopolio od un organismo per l'importazione, l'esportazione, l'acquisto, la vendita, la distribuzione o la produzione di qualsiasi prodotto, od accordi a qualsiasi organismo privilegi esclusivi per l'importazione, l'esportazione, l'acquisto, la vendita, la distribuzione o la produzione di qualsiasi prodotto, detto monopolio od organismo accorderà al commercio dell'altra Alta Parte Contraente un trattamento giusto ed equo per quanto riguarda i suoi acquisti di prodotti naturali, coltivati o manufatti di Paesi stranieri, nonchè le sue vendite di prodotti destinati a Paesi stranieri. A tal fine il monopolio o l'organismo, nell'effettuare i detti acquisti o vendite di qualsiasi prodotto, si ispirerà per quanto riguarda il prezzo, la qualità, la commerciabilità, i trasporti e le condizioni di acquisto o di vendita, unicamente a quelle considerazioni di cui terrebbe ordinariamente conto una impresa commerciale privata che non avesse altro interesse all'infuori di quello di acquistare o di vendere detti prodotti alle condizioni più favorevoli. Qualora ciascuna Alta Parte Contraente istituisca o mantenga un monopolio od un organismo per le prestazioni di qualsiasi servizio od accordi a qualsiasi organismo privilegi esclusivi per la prestazione di qualunque servizio, il monopolio o l'organismo in questione accorderà un trattamento giusto ed equo all'altra Alta Parte Contraente ed ai cittadini, alle persone giuridiche ed associazioni ed al commercio della medesima, per quanto riguarda operazioni relative al detto servizio, in confronto al trattamento accordato o che potrà essere accordato in avvenire a qualsiasi terzo Paese ed ai cittadini, alle persone giuridiche ed associazioni ed al commercio del medesimo.

2. Ciascuna Alta Parte Contraente, nell'accordare concessioni, nel concludere contratti e nell'acquisto di provviste, accorderà un trattamento giusto ed equo ai cittadini, alle persone giuridiche ed associazioni e al commercio dell'altra Parte Contraente in confronto al trattamento accordato o che potrà essere accordato in avvenire ai cittadini, alle persone giuridiche ed associazioni ed al commercio di qualsiasi terzo Paese.

3. Le due Alte Parti Contraenti convengono che metodi di affari che intralcino la concorrenza, limitino l'accesso ai mercati od agevolino controlli monopolistici e che siano praticati o posti in atto da una o più imprese commerciali, pubbliche o private, oppure da combinazioni, accordi o altre intese fra imprese commerciali pubbliche o private, possono avere effetti nocivi sul commercio fra i rispettivi territori. Di conseguenza, ciascuna Alta Parte Contraente conviene di procedere a consultazioni, su richiesta dell'altra Alta Parte Contraente, in merito a simili metodi e di adottare quelle misure che crederà appropriate allo scopo di eliminare detti effetti nocivi.

Article II

1. Nationals of either Party shall be permitted to enter the territories of the other Party and to remain therein: (a) for the purpose of carrying on trade between the territories of the two Parties and engaging in related commercial activities; (b) for the purpose of developing and directing the operations of an enterprise in which they have invested, or in which they are actively in the process of investing, a substantial amount of capital; and (c) for other purposes subject to the laws relating to the entry and sojourn of aliens.

2. Nationals of either Party, within the territories of the other Party, shall be permitted: (a) to travel therein freely, and to reside at places of their choice; (b) to enjoy liberty of conscience; (c) to hold both private and public religious services; (d) to gather and to transmit material for dissemination to the public abroad; and (e) to communicate with other persons inside and outside such territories by mail, telegraph and other means open to general public use.

3. For the purpose of strengthening the friendly relations and understanding between the two countries by encouraging mutual contacts between their peoples, the best facilities possible shall be made available for travel by tourists and other visitors, for the distribution of information for tourists, and with respect to the entry, sojourn and departure of visitors.

4. The provisions of the present Article shall be subject to the right of either Party to apply measures that are necessary to maintain public order and protect the public health, morals and safety.

Article III

Article XIX

1. Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation.

2. Vessels under the flag of either High Contracting Party, and carrying the papers required by its national law in proof of nationality, shall be deemed to be vessels of that High Contracting Party both within the ports, places and waters of the other High Contracting Party and on the high seas. As used in this Treaty, « vessels » shall be construed to include all vessels of either High Contracting Party whether privately owned or operated or publicly owned or operated. However, the provisions of this Treaty other than this paragraph and paragraph 4 of Article XX shall not be construed to accord rights to vessels of war or fishing vessels of the other High Contracting Party; nor shall they be construed to extend to nationals, corporations and associations, vessels and cargoes of, or to articles the growth, produce or manufacture of, such other High Contracting Party any special privileges restricted to national fisheries or the products thereof.

3. The vessels of either High Contracting Party shall have liberty, equally with the vessels of any third country, to come with their cargoes to all ports, places and waters of the other High Contracting Party which are or may hereafter be open to foreign commerce and navigation.

Article XX

1. The vessels and cargoes of either High Contracting Party shall, within the ports, places and waters of the other High Contracting Party, in all respects be accorded treatment no less favorable than the treatment accorded to the vessels and cargoes of such other High Contracting Party, irrespective of the port of departure or the port of destination of the vessel, and irrespective of the origin or the destination of the cargo.

2. No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges, of whatever kind or denomination, levied in the name or for the profit of the government, public functionaries, private individuals, corporations or establishments of any kind, shall be imposed in the ports, places and waters of either High Contracting Party upon the vessels of the other High Contracting Party, which shall not equally and under the same conditions be imposed upon national vessels.

3. No charges upon passengers, passenger fares or tickets, freight moneys paid or to be paid, bills of lading, contracts of insurance or re-insurance, no conditions relating to the employment of ship brokers, and no other charges or conditions of any kind, shall be imposed in a way tending to accord any advantage to national vessels as compared with the vessels of the other High Contracting Party.

4. If a vessel of either High Contracting Party shall be forced by stress of weather or by reason of any other distress to take refuge in any of the ports, places or waters of the other High Contracting Party not open to foreign com-

Articolo XIX

1. Fra i territori delle Alte Parti Contraenti vi sarà libertà di commercio e di navigazione.

2. Le navi battenti la bandiera di ciascuna Alta Parte Contraente e munite dei documenti prescritti dalla propria legge nazionale per la prova della nazionalità, saranno considerate navi della detta Alta Parte Contraente sia nei porti, nei luoghi e nelle acque dell'altra Alta Parte Contraente, sia in alto mare. Il termine « navi » usato nel presente Trattato, sarà interpretato in modo da comprendere tutte le navi di ciascuna Alta Parte Contraente, sia di proprietà privata o gestite da privati, sia di proprietà pubblica o gestite da enti pubblici. Tuttavia le disposizioni di questo Trattato, eccettuate quelle del presente paragrafo e quelle del paragrafo 4 dell'Articolo XX, non saranno interpretate nel senso di accordare diritti a navi da guerra o da pesca dell'altra Alta Parte Contraente; nè saranno interpretate nel senso di estendere ai cittadini, alle persone giuridiche ed associazioni, alle navi ed ai carichi ed ai prodotti naturali, coltivati o manufatti della detta altra Alta Parte Contraente qualsiasi privilegio speciale limitato alla pesca nazionale od ai prodotti di essa.

3. Le navi di ciascuna Alta Parte Contraente saranno libere, alla pari delle navi di qualsiasi terzo Paese, di recarsi coi loro carichi in tutti i porti, luoghi ed acque dell'altra Alta Parte Contraente che siano o che potranno essere aperti in avvenire al commercio ed alla navigazione estera.

Articolo XX

1. Alle navi ed ai carichi di ciascuna Alta Parte Contraente sarà accordato, sotto ogni riguardo, nei porti, nei luoghi e nelle acque dell'altra Alta Parte Contraente un trattamento non meno favorevole di quello accordato alle navi ed ai carichi della detta altra Alta Parte Contraente, indipendentemente dal porto di partenza o di destinazione della nave e indipendentemente dall'origine o dalla destinazione del carico.

2. Nei porti, nei luoghi e nelle acque di ciascuna Alta Parte Contraente non sarà imposto alle navi dell'altra Alta Parte Contraente, alcun diritto di tonnellaggio, portuale, di pilotaggio, di faro, di quarantena od altro diritto od onere simile o corrispondente, di qualsiasi genere o denominazione, da applicarsi in nome od a vantaggio del governo, di pubblici funzionari, di individui privati, di persone giuridiche od organismi di qualunque specie, che non sia imposto ugualmente e nelle stesse condizioni alle navi nazionali.

3. Non sarà imposto, in modo tendente ad accordare un vantaggio qualsiasi a navi nazionali nei confronti delle navi dell'altra Alta Parte Contraente, alcun onere sui passeggeri, sul prezzo del loro viaggio o sui biglietti, sul nolo delle merci pagato o da pagarsi, sulle polizze di carico, sui contratti d'assicurazione o riassicurazione, nè alcuna condizione relativa all'impiego di agenti marittimi, nè alcun altro onere od altra condizione di qualsiasi genere.

4. Qualora una nave di una delle due Alte Parti Contraenti sia costretta dal maltempo o da altri casi di fortuna a rifugiarsi in porti, luoghi od acque qualsiasi dell'altra Alta Parte Contraente, che non siano aperti al commercio ed alla

merce and navigation, it shall receive friendly treatment and assistance and such repairs, as well as supplies and materials for repair, as may be necessary and available. This paragraph shall apply to vessels of war and fishing vessels, as well as to vessels as defined in paragraph 2 of Article XIX.

5. The vessels and cargoes of either High Contracting Party shall not in any case, with respect to the matters referred to in this Article, receive treatment less favorable than the treatment which is or may hereafter be accorded to the vessels and cargoes of any third country.

Article XXI

1. It shall be permissible, in the vessels of either High Contracting Party, to import into the territories of the other High Contracting Party, or to export therefrom, all articles which it is or may hereafter be permissible to import into such territories, or to export therefrom, in the vessels of such other High Contracting Party or of any third country ; and such articles shall not be subject to any higher duties or charges whatever than those to which the articles would be subject if they were imported or exported in vessels of the other High Contracting Party or of any third country.

2. Bounties, drawbacks and other privileges of this nature of whatever kind or denomination which are or may hereafter be allowed, in the territories of either High Contracting Party, on articles imported or exported in national vessels or vessels of any third country shall also and in like manner be allowed on articles imported or exported in vessels of the other High Contracting Party.

Article XXII

1. Vessels of either High Contracting Party shall be permitted to discharge portions of cargoes, including passengers, at any ports, places or waters of the other High Contracting Party which are or may hereafter be open to foreign commerce and navigation, and to proceed with the remaining portions of such cargoes or passengers to any other such ports, places or waters, without paying higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner, in the same voyage outward, at the various ports, places and waters which are or may hereafter be open to foreign commerce and navigation. The vessels and cargoes of either High Contracting Party shall be accorded, with respect to the matters referred to in this paragraph, treatment in the ports, places and waters of the other High Contracting Party no less favorable than the treatment which is or may hereafter be accorded to the vessels and cargoes of any third coyntry.[1]

2. The coasting trade and inland navigation of each High Contracting Party are excepted from the requirements of national and most-favored-nation treatment.

[1] The word "coyntry" should read "country".

navigazione esteri, riceverà un trattamento amichevole ed assistenza e le saranno fornite quelle riparazioni, come pure provviste e materiali per le riparazioni, che siano necessarie e disponibili. Il presente paragrafo si applicherà alle navi da guerra e da pesca non meno che alle navi definite nel paragrafo 2 dell'Articolo XIX.

5. Le navi ed i carichi di ciascuna Alta Parte Contraente non riceveranno in nessun caso, per quanto riguarda la materia cui si riferisce il presente articolo, un trattamento meno favorevole di quello accordato o che potrà essere accordato in avvenire alle navi ed ai carichi di qualsiasi terzo Paese.

Articolo XXI

1. Sarà permesso con le navi di ciascuna Alta Parte Contraente di importare nei territori dell'altra Alta Parte Contraente o di esportare dai medesimi tutti i prodotti che sia consentito o potrà essere consentito in avvenire di importare nei detti territori o di esportare dai medesimi su navi della predetta altra Alta Parte Contraente o di qualsiasi terzo Paese ; e tali prodotti non saranno soggetti a diritti od oneri di qualunque genere più gravosi di quelli cui sarebbero soggetti i prodotti se importati od esportati con navi dell'altra Alta Parte Contraente o di qualsiasi terzo Paese.

2. I premi, i rimborsi di diritti doganali ed altri privilegi di tale natura, di qualsiasi genere o denominazione, concessi o che potranno essere concessi in avvenire entro i territori di ciascuna Alta Parte Contraente per prodotti importati od esportati con navi nazionali o con navi di qualsiasi terzo Paese, saranno pure concessi e nello stesso modo per prodotti importati od esportati con navi dell'altra Alta Parte Contraente.

Articolo XXII

1. Le navi di ciascuna Alta Parte Contraente avranno facoltà di scaricare parte del carico, compresi i passeggeri, in qualsiasi porto, luogo od acque dell'altra Alta Parte Contraente che siano o possano essere aperti in avvenire al commercio ed alla navigazione esteri, nonchè di proseguire colla rimanenza dei detti carichi o passeggeri, verso altri simili porti, luoghi od acque, senza pagare in tal caso diritti di tonnellaggio od oneri portuali più elevati di quelli che sarebbero pagati in circostanze uguali da navi nazionali ed avranno facoltà di effettuare parimenti operazioni di carico, nello stesso viaggio verso l'estero, nei vari porti, luoghi ed acque che siano o possano essere aperti in avvenire al commercio ed alla navigazione esteri. Alle navi ed ai carichi di ciascuna Alta Parte Contraente sarà accordato, in relazione alle materie di cui al presente paragrafo, nei porti, nei luoghi e nelle acque dell'altra Alta Parte Contraente, un trattamento non meno favorevole di quello accordato o che potrà essere accordato in avvenire alle navi ed ai carichi di qualsiasi terzo Paese.

2. Per il traffico costiero e per la navigazione interna di ciascuna Alta Parte Contraente non vi sarà obbligo di concedere il trattamento nazionale o quello della Nazione più favorita.

Article V

1. Nationals and companies of either Party shall be accorded national treatment and most-favored-nation treatment with respect to access to the courts of justice and to administrative tribunals and agencies within the territories of the other Party, in all degrees of jurisdiction, both in pursuit and in defense of their rights. It is understood that companies of either Party not engaged in activities within the territories of the other Party shall enjoy such access therein without any requirement of registration or domestication.

2. Contracts entered into between nationals and companies of either Party and nationals and companies of the other Party, that provide for the settlement by arbitration of controversies, shall not be deemed unenforceable within the territories of such other Party merely on the grounds that the place designated for the arbitration proceedings is outside such territories or that the nationality of one or more of the arbitrators is not that of such other Party. No award duly rendered pursuant to any such contract, and final and enforceable under the laws of the place where rendered, shall be deemed invalid or denied effective means of enforcement within the territories of either Party merely on the grounds that the place where such award was rendered is outside such territories or that the nationality of one or more of the arbitrators is not that of such Party.

Article VI

Article XXIII

There shall be freedom of transit through the territories of each High Contracting Party by the routes most convenient for international transit (*a*) for persons who are nationals of any third country, together with their baggage, directly or indirectly coming from or going to the territories of the other High Contracting Party, (*b*) for persons who are nationals of the other High Contracting Party, together with their baggage, regardless of whether they are coming from or going to the territories of such other High Contracting Party, and (*c*) for articles directly or indirectly coming from or going to the territories of the other High Contracting Party. Such persons, baggage and articles in transit shall not be subject to any transit duty, to any unnecessary delays or restrictions, or to any discrimination in respect of charges, facilities or any other matter; and all charges and regulations prescribed in respect of such persons, baggage or articles shall be reasonable, having regard to the conditions of the traffic. Either High Contracting Party may require that such baggage and articles be entered at the proper customhouse and that they be kept whether or not unde[1]bond in customs custody; but such baggage and articles shall be exempt from all customs duties or similar charges if such requirements for entry and retention in customs custody are complied with and if they are exported within one year and satisfactory evidence of such exportation is presented to the customs authorities. Such nationals, baggage, persons and articles shall be accorded treatment with respect to all charges, rules and formalities in connection with transit no less favorable than the treatment which is or may hereafter be accorded to the nationals of any third country, together with their baggage, or to persons and articles coming from or going to the territories of any third country.

Article XXIV

1. Nothing in this Treaty shall be construed to prevent the adoption or enforcement by either High Contracting Party of measures:

(*a*) relating to the importation or exportation of gold or silver;

(*b*) relating to the exportation of objects the value of which derives primarily from their character as works of art, or as antiquities, of national interest or from their relationship to national history, and which are not in general practice considered articles of commerce;

(*c*) relating to fissionable materials, to materials which are the source of fissionable materials, or to radio-active materials which are by-products of fissionable materials;

(*d*) relating to the production of and traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment;

(*e*) necessary in pursuance of obligations for the maintenance of international peace and security, or necessary for the protection of the essential interests of such High Contracting Party in time of national emergency; or

(*f*) imposing exchange restrictions, as a member of the International Monetary Fund, in conformity with the Articles of Agreement thereof signed at

[1] The word "unde" should read "under".

Articolo XXIII

Vi sarà libertà di transito attraverso i territori di ciascuna Alta Parte Contraente per le vie più convenienti al transito internazionale: (*a*) per le persone che sono cittadini di qualsiasi terzo Paese, con i loro bagagli, le quali direttamente od indirettamente, provengano dai territori dell'altra Alta Parte Contraente o vi siano dirette; (*b*) per le persone che sono cittadini dell'altra Alta Parte Contraente, coi loro bagagli, indipendentemente dal fatto che siano o meno provenienti dai territori della detta Alta Parte Contraente o vi siano dirette e (*c*) per i prodotti direttamente od indirettamente provenienti dai territori dell'altra Alta Parte Contraente od ivi destinati. Tali persone, bagagli e prodotti in transito non saranno soggetti ad alcun diritto di transito, ad alcun ritardo o restrizione non necessari, nè ad alcuna discriminazione per quanto riguarda oneri, agevolazioni od altro; e tutti gli oneri e norme prescritti per tali persone, bagagli o prodotti saranno ragionevoli, tenendo presenti le condizioni del traffico. Ciascuna Alta Parte Contraente può richiedere che detti bagagli e detti prodotti siano introdotti nella dogana competente e siano tenuti in custodia doganale con o senza cauzione; ma tali bagagli e prodotti saranno esenti da tutti i diritti doganali od oneri consimili qualora si sia ottemperato alle dette prescrizioni per l'introduzione in dogana e per la custodia doganale e purchè vengano esportati entro un anno e venga esibita alle Autorità doganali una prova soddisfacente della detta esportazione. Ai detti cittadini, bagagli, persone e prodotti sarà accordato, per quanto riguarda tutti gli oneri, norme e formalità connesse col transito, un trattamento non meno favorevole di quello accordato o che potrà essere accordato in avvenire ai cittadini di qualsiasi terzo Paese ed ai loro bagagli od alle persone ed ai prodotti provenienti dai territori di qualsiasi terzo Paese od ivi diretti.

Articolo XXIV

1. Nessuna disposizione del presente Trattato sarà interpretata in modo da impedire l'adozione o l'applicazione da parte di ciascuna Alta Parte Contraente, di provvedimenti:

a) relativi all'importazione od all'esportazione di oro od argento;

b) relativi all'esportazione di oggetti il cui valore deriva principalmente dal loro carattere di opere d'arte o di antichità d'interesse nazionale o dalla loro relazione con la storia nazionale, e che nella pratica comune non sono considerati articoli di commercio;

c) relativi a materiali di fissione, a materiali da cui si estraggono materiali di fissione od a materiali radio-attivi che siano sottoprodotti di materiali di fissione;

d) relativi alla produzione ed al traffico di armi, munizioni e materiali da guerra, nonchè a quel traffico di altre merci e materiali che sia esercitato allo scopo di rifornire stabilimenti militari;

e) necessari in adempimento di obblighi per il mantenimento della pace e della sicurezza internazionali o necessari per la protezione degli interessi essenziali di detta Alta Parte Contraente in tempo di emergenza nazionale; oppure,

5. Nationals and companies of either Party shall in no case be accorded, within the territories of the other Party, less than national treatment and most-favored-nation treatment with respect to the matters set forth in paragraphs 2 and 4 of the présent Article. Moreover, enterprises in which nationals and companies of either Party have a substantial interest shall be accorded, within the territories of the other Party, not less than national treatment and most-favored-nation treatment in all matters relating to the taking of privately owned enterprises into public ownership and to the placing of such enterprises under public control.

Article VII

Washington December 27, 1945,[1] but without utilizing its privileges under Article VI, section 3, of that Agreement so as to impair any provision of this Treaty; provided that either High Contracting Party may, nevertheless, regulate capital transfers to the extent necessary to insure the importation of essential goods or to effect a reasonable rate of increase in very low monetary reserves or to prevent its monetary reserves from falling to a very low level. If the International Monetary Fund should cease to function, or if either High Contracting Party should cease to be a member thereof, the two High Contracting Parties, upon the request of either High Contracting Party, shall consult together and may conclude such arrangements as are necessary to permit appropriate action in contingencies relating to international financial transactions comparable with those under which exceptional action had previously been permissible.

2. Subject to the requirement that, under like circumstances and conditions, there shall be no arbitrary discrimination by either High Contracting Party against the other High Contracting Party or against the nationals, corporations, associations, vessels or commerce thereof, in favor of any third country or the nationals, corporations, associations, vessels or commerce thereof, the provisions of this Treaty shall not extend to prohibitions or restrictions:

(*a*) imposed on moral or humanitarian grounds;

(*b*) designed to protect human, animal or plant life or health;

(*c*) relating to prison-made goods; or

(*d*) relating to the enforcement of police or revenue laws.

3. The provisions of this Treaty according treatment no less favorable than the treatment accorded to any third country shall not apply to:

(*a*) advantages which are or may hereafter be accorded to adjacent countries in order to facilitate frontier traffic;

(*b*) advantages accorded by virtue of a customs union of which either High Contracting Party may, after consultation with the other High Contracting Party, become a member so long as such advantages are not extended to any country which is not a member of such customs union;

(*c*) advantages accorded to third countries pursuant to a multilateral economic agreement of general applicability, including a trade area of substantial size, having as its objective the liberalization and promotion of international trade or other international economic intercourse, and open to adoption by all the United Nations;[2]

(*d*) advantages now accorded or which may hereafter be accorded by the Italian Republic to San Marino, to the Free Territory of Trieste or to the State of Vatican City, or by the United States of America or its territories or possessions to one another, to the Panama Canal Zone, to the Republic of Cuba, to the Republic of the Philippines or to the Trust Territory of the Pacific Islands; or

(*e*) advantages which, pursuant to a decision made by the United Nations or an organ thereof or by an appropriate specialized agency in relationship with the United Nations, may hereafter be accorded by either High Contracting Party to areas other than those enumerated in subparagraph (*d*) of the present paragraph.

The provisions of subparagraph (*d*) shall continue to apply in respect of any advantages now or hereafter accorded by the United States of America

[1] Treaties and Other International Acts Series 1501; 60 Stat. 1401.

[2] See *post*, p. 55 ff.

f) che impongano restrizioni valutarie, in qualità di membro del Fondo Monetario Internazionale, in conformità con il relativo Accordo firmato a Washington il 27 dicembre 1945, ma senza far un uso dei propri privilegi a norma dell'Articolo VI, Sezione 3, di detto Accordo che rechi pregiudizio a qualsiasi disposizione del presente Trattato; purchè ciascuna delle Alte Parti Contraenti possa ciononostante regolare trasferimenti di capitali nella misura necessaria per assicurare l'importazione di merci essenziali o per provocare, nel caso di riserve monetarie molte basse, un ragionevole saggio di accrescimento di esse medesime o per impedire che le sue riserve monetarie cadano ad un livello molto basso. Qualora il Fondo Monetario Internazionale cessi di funzionare oppure una delle due Alte Parti Contraenti cessi di essere membro dello stesso, le due Alte Parti Contraenti, su richiesta dell'una o dell'altra, si consulteranno e potranno concludere quegli accordi che siano necessari per permettere l'adozione di misure appropriate qualora, relativamente ad operazioni finanziarie internazionali, si verifichino contingenze che siano paragonabili a quelle per cui erano precedentemente permesse misure d'eccezione.

2. Subordinatamente al requisito che, in circostanze e condizioni analoghe, non vi sarà alcuna discriminazione arbitraria da parte di una delle due Alte Parti Contraenti contro l'altra Alta Parte Contraente o contro i cittadini, le persone giuridiche ed associazioni, le navi od il commercio della medesima, in favore di qualsiasi terzo Paese o dei cittadini, delle persone giuridiche ed associazioni, delle navi o del commercio di quest'ultimo, le disposizioni del presente Trattato non si estenderanno a divieti o restrizioni:

a) imposti per ragioni morali od umanitarie;

b) intesi a proteggere la vita o la sanità umana, animale o vegetale;

c) relativi a merci prodotte nei penitenziari; oppure

d) relativi all' esecuzione di leggi di polizia o tributarie.

3. Le disposizioni del presente Trattato che accordano un trattamento non meno favorevole di quello accordato a qualsiasi terzo Paese non si applicheranno:

a) ai vantaggi accordati o che potranno essere accordati in avvenire a paesi limitrofi allo scopo di facilitare il traffico di frontiera;

b) ai vantaggi accordati in virtù di una Unione doganale, di cui una delle due Alte Parti Contraenti possa, previa consultazione con l'altra Alta Parte Contraente, divenir membro, fino a quando i detti vantaggi non siano estesi ad alcun Paese che non sia membro della detta Unione doganale;

c) ai vantaggi accordati a terzi Paesi in virtù di una convenzione plurilaterale economica di applicabilità generale che abbracci un'area commerciale di estensione considerevole, avente lo scopo di rendere più liberi e di promuovere il commercio internazionale od altri rapporti economici internazionali e alla quale possano aderire tutte le Nazioni Unite;

d) ai vantaggi accordati attualmente o che potranno essere accordati in avvenire dalla Repubblica Italiana a San Marino, al Territorio Libero di Trieste o allo Stato della Città del Vaticano, oppure dagli Stati Uniti d'America o dai propri territori o possedimenti tra di loro, alla zona del Canale di Panama, alla Repubblica di Cuba, alla Repubblica delle Filippine od al Territorio delle Isole del Pacifico in amministrazione fiduciaria; oppure

e) ai vantaggi che, in virtù di una decisione presa dalle Nazioni Unite o da un organo delle stesse o da un appropriato organismo specializzato che sia

on such activities within its territories, shall not be applied as against enterprises which are engaged in such activities therein at the time such new limitations are adopted provided that such enterprises are owned or controlled by nationals or companies of the other Party. Moreover, neither Party shall deny to communications, transportations and banking companies of the other Party the right to maintain branches and agencies to perform functions necessary for essentially international operations in which they are permitted to engage.

3. The provisions of paragraph 1 of the present Article shall not prevent either Party from prescribing special formalities in connection with the establishment of alien-controlled enterprises within its territories; but such formalities may not impair the substance of the rights set forth in said paragraph.

4. Nationals and companies of either Party, as well as enterprises controlled by such nationals and companies, shall in any event be accorded most-favored-nation treatment with reference to the matters treated in the present Article.

Article VIII

or its territories or possessions to one another irrespective of any change in the political status of any of the territories or possessions of the United States of America.

4. The provisions of this Treaty shall not be construed to accord any rights or privileges to persons, corporations and associations to engage in political activities, or to organize or participate in political corporations and associations.

5. Each High Contracting Party reserves the right to deny any of the rights and privileges accorded by this Treaty to any corporation or association created or organized under the laws and regulations of the other High Contracting Party in the ownership or direction of which nationals of any third country or countries have directly or indirectly a controlling interest.

6. No enterprise of either High Contracting Party which is publicly owned or controlled shall, if it engages in commercial, manufacturing, processing, shipping or other business activities within the territories of the other High Contracting Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, from suit, from execution of judgment, or from any other liability to which a privately owned and controlled enterprise is subject therein.

7. The provisions of this Treaty shall not be construed to affect existing laws and regulations of either High Contracting Party in relation to immigration or the right of either High Contracting Party to adopt and enforce laws and regulations relating to immigration; provided, however, that nothing in this paragraph shall prevent the nationals of either High Contracting Party from entering, traveling and residing in the territories of the other High Contracting Party in order to carry on trade between the two High Contracting Parties or to engage in any commercial activity related thereto or connected therewith, upon terms as favorable as are or may hereafter be accorded to the nationals of any third country entering, traveling and residing in such territories in order to carry on trade between such other High Contracting Party and such third country or to engage in commercial activity related to or connected with such trade.

Article XXV

Subject to any limitation or exception provided in this Treaty or hereafter agreed upon between the High Contracting Parties, the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land and water under the sovereignty or authority of either of the High Contracting Parties, other than the Canal Zone,

in relazione con le Nazioni Unite, potranno essere accordati in avvenire da ciascuna Alta Parte Contraente ad aree diverse da quelle elencate nel comma (*d*) del presente paragrafo.

Le disposizioni del comma (*d*) continueranno ad avere applicazione per quanto riguarda qualsiasi vantaggio accordato attualmente o che sarà accordato in avvenire dagli Stati Uniti d'America o dai propri territori o possedimenti tra di loro, indipendentemente da qualunque cambiamento dello stato politico di qualsiasi territorio o possedimento degli Stati Uniti d'America.

4. Le disposizioni del presente Trattato non saranno interpretate nel senso di accordare alcun diritto o privilegio a persone fisiche ed a persone giuridiche ed associazioni per lo svolgimento di attività politiche o per l'organizzazione di persone giuridiche ed associazioni di natura politica o per la partecipazione alle medesime.

5. Qualora cittadini di un terzo o di terzi Paesi abbiano direttamente o indirettamente nella proprietà o nella direzione di persone giuridiche ed associazioni istituite od organizzate a norma delle leggi e dei regolamenti di una delle due Alte Parti Contraenti un interesse che ne dia loro il controllo, l'altra Alta Parte Contraente si riserva il diritto di negare alle persone giuridiche ed associazioni predette qualsiasi diritto o privilegio accordato dal presente Trattato.

6. Nessuna impresa di ciascuna Alta Parte Contraente di proprietà pubblica o sotto controllo pubblico, qualora svolga attività commerciali, industriali, di trasformazione, navigazione od altre attività d'affari entro i territori dell'altra Alta Parte Contraente, potrà pretendere o godere nei territori stessi, nè per sè nè per i propri beni, immunità da tributi, da azioni legali, da esecuzioni di sentenze o da qualsiasi altra responsabilità alla quale sia ivi soggetta un'impresa controllata da o appartenente a privati.

7. Le disposizioni del presente Trattato non saranno interpretate in modo da avere effetto sulle leggi e sui regolamenti vigenti di ciascuna Alta Parte Contraente in materia di immigrazione, o sul diritto di ciascuna Alta Parte Contraente di emanare ed applicare leggi e regolamenti in materia di immigrazione; purchè tuttavia, nessuna disposizione del presente paragrafo impedisca ai cittadini di ciascuna Alta Parte Contraente di entrare, viaggiare e risiedere nei territori dell'altra Alta Parte Contraente, allo scopo di esercitare il commercio fra le due Alte Parti Contraenti o di svolgere qualsiasi attività commerciale connessa od inerente a detto esercizio, a condizioni altrettanto favorevoli di quelle accordate o che potranno essere accordate in avvenire ai cittadini di qualsiasi terzo Paese che entrino, viaggino e risiedano nei detti territori allo scopo di esercitare il commercio fra la detta altra Alta Parte Contraente ed il detto Paese o di svolgere attività commerciali connesse od inerenti a tale commercio.

Articolo XXV

Ferma restando qualsiasi limitazione od eccezione disposta dal presente Trattato o che venga concordata in avvenire tra le Alte Parti Contraenti, i territori delle Alte Parti Contraenti cui si riferiscono le disposizioni del presente Trattato, si intenderanno comprendere tutte le zone terrestri e marittime che si trovano sotto la sovranità od autorità di ciascuna delle Alte Parti Contraenti,

Article IX

1. Nationals and companies of either Party shall be accorded within the territories of the other Party:

(a) national treatment with respect to leasing land, buildings and other immovable property appropriate to the conduct of activities in which they are permitted to engage pursuant to Articles VII and VIII and for residential purposes; and

(b) other rights in immovable property permitted by the applicable laws of the other Party.

2. Nationals and companies of either Party shall be permitted freely to dispose of property within the territories of the other Party with respect to the acquisition of which through testate or intestate succession their alienage has prevented them from receiving national treatment, and they shall be permitted a term of at least five years in which to effect such disposition.

3. Nationals and companies of either Party shall be accorded within the territories of the other Party national treatment and most-favored-nation treatment, with respect to acquiring, by purchase, lease, or otherwise, and with respect to owning and possessing, personal property of all kinds, both tangible and intangible. However, either Party may impose restrictions on alien ownership of materials dangerous from the standpoint of public safety and alien ownership of interests in enterprises carrying on particular types of activity, but only to the extent that this can be done without impairing the rights and privileges secured by Article VII or by other provisions of the present treaty.

4. Nationals

4. Nationals and companies of either Party shall be accorded ... within the territories of the other Party national treatment and most-favored-nation treatment with respect to disposing of property of all kinds.

Article X

Article X

1. Nationals and companies of either Party shall be accorded within the territories of the other Party, national treatment and most-favored-nation treatment with respect to obtaining and maintaining patents of invention, and with respect to rights in trademarks, trade names, trade labels and industrial property of every kind.

2. The Parties undertake to cooperate in furthering the interchange and use of scientific and technical knowledge, particularly in the interests of increasing productivity and improving standards of living within their respective territories.

3. Neither Party shall unreasonably impede nationals and companies of the other Party from obtaining on equitable terms, through normal commercial channels, the capital, skills, arts, and technology it needs for its economic development.

Article XI

Article XI

1. Nationals of either Party residing within the territories of the other Party, and nationals and companies of either Party engaged in trade or other gainful pursuit or in scientific, educational, religious, or philanthropic activities within the territories of the other Party, shall not be subject to the payment of taxes, fees or charges imposed upon or applied to income, capital, transactions, activities or any other object, or to requirements with respect to the levy and collection thereof, within the territories of such other Party, more burdensome than those borne by nationals and companies of such other Party.

2. With respect to nationals of either Party who are neither resident nor engaged in trade or other gainful pursuit within the territories of the other Party, and with respect to companies of either Party which are not engaged in trade or other gainful pursuit within the territories of the other Party, it shall be the aim of such other Party to apply in general the principle set forth in paragraph 1 of the present Article.

3. Nationals and companies of either Party shall in no case be subject, within the territories of the other Party, to the payment of taxes, fees or charges imposed upon or applied to income, capital, transactions, activities or any other object, or to requirements with respect to the levy and collection thereof, more burdensome than those borne by nationals, residents and companies of any third country.

4. In the case of companies of either Party engaged in trade or other gainful pursuit within the territories of the other

Party

Party, and in the case of nationals of either Party engaged in trade or other gainful pursuit within the territories of the other Party but not resident therein, such other Party shall not impose or apply any tax, fee or charge upon any income, capital or other basis in excess of that reasonably allocable or apportionable to its territories, nor grant deductions and exemptions less than those reasonably allocable or apportionable to its territories. A comparable rule shall apply also in the case of companies organized and operated exclusively for scientific, educational, religious or philanthropic purposes.

5. Each Party reserves the right to:

(a) extend specific advantages regarding taxes, dues, and charges to nationals, residents and companies of other countries on a basis of reciprocity;

(b) accord special tax advantages by virtue of agreements for the avoidance of double taxation or the mutual protection of revenue; and

(c) accord to its own nationals and to residents of contiguous countries exemptions of a personal nature with respect to income and inheritance taxes which may be more favorable than those accorded to other non-resident persons.

Article XII

Article XII

1. Nationals and companies of either Party shall be accorded by the other Party national treatment and most-favored-nation treatment with respect to payments, remittances and transfers of funds or financial instruments between the territories of the two Parties as well as between the territories of such other Party and of any third country.

2. Neither Party shall impose exchange restrictions as defined in paragraph 5 of the present Article except to the extent necessary to prevent its monetary reserves from falling to a very low level or to effect a moderate increase in very low monetary reserves. It is understood that the provisions of the present Article do not alter the obligations either Party may have to the International Monetary Fund or preclude imposition of particular restrictions whenever the Fund specifically authorizes or requests a Party to impose such particular restrictions.

3. If either Party imposes exchange restrictions in accordance with paragraph 2 of the present Article, it shall, after making whatever provision may be necessary to assure the availability of foreign exchange for goods and services essential to the health and welfare of its people, make reasonable provision for the withdrawal, in foreign exchange in the currency of the other Party, of: (a) the compensation referred to in Article VI, paragraph 4, (b) earnings, whether in the form of salaries, interest, dividends, commissions, royalties, payments for technical services, or otherwise, and (c) amounts for amortization of loans, depreciation of direct investments, and capital transfers, giving

consideration

and other than the Trust Territory of the Pacific Islands except to the extent that the President of the United States of America shall by proclamation extend provisions of the Treaty to such Trust Territory.

Article XXVI

Any dispute between the High Contracting Parties as to the interpretation or the application of this Treaty, which the High Contracting Parties shall not satisfactorily adjust by diplomacy, shall be submitted to the International Court of Justice, unless the High Contracting Parties shall agree to settlement by some other pacific means.

Article XXVII

1. This Treaty shall be ratified, and the ratifications thereof shall be exchanged at Rome as soon as possible.

2. This Treaty shall enter into force on the day of the exchange of ratifications,[1] and shall continue in force for a period of ten years from that day.

3. Unless one year before the expiration of the aforesaid period of ten years either High Contracting Party shall have given written notice to the other High Contracting Party of intention to terminate this Treaty upon the expiration of the aforesaid period, the Treaty shall continue in force thereafter until one year from the date on which written notice of intention to terminate it shall have been given by either High Contracting Party.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Treaty and have affixed hereunto their seals.

DONE in duplicate, in the English and Italian languages, both equally authentic, at Rome, this second day of February one thousand nine hundred forty-eight.

For the Government of the United States of America

JAMES CLEMENT DUNN

For the Italian Government

SFORZA

[1] See *post*, p. 52.

fuorchè la zona del Canale di Panama, e fuorchè il Territorio delle Isole del Pacifico in amministrazione fiduciaria salva la misura entro cui il Presidente degli Stati Uniti d'America estenda, mediante suo decreto, le disposizioni del Trattato a detto Territorio in amministrazione fiduciaria.

Articolo XXVI

Qualsiasi controversia fra le Alte Parti Contraenti circa l'interpretazione o l'applicazione del presente Trattato, che le Alte Parti Contraenti non risolvano soddisfacentemente in via diplomatica, sarà sottoposta alla Corte Internazionale di Giustizia, a meno che le Alte Parti Contraenti convengano di risolverla con altri mezzi pacifici.

Articolo XXVII

1. Il presente Trattato sarà ratificato ; lo scambio delle ratifiche avrà luogo a Roma al più presto possibile.

2. Il presente Trattato entrerà in vigore il giorno dello scambio delle ratifiche e rimarrà in vigore per un periodo di dieci anni da quel giorno.

3. A meno che un anno prima dello spirare del predetto periodo di dieci anni una delle Alte Parti Contraenti notifichi per iscritto all'altra Alta Parte Contraente la sua intenzione di porre termine al presente Trattato alla scadenza del predetto periodo, il Trattato rimarrà in vigore ulteriormente fino ad un anno dalla data nella quale una delle due Alte Parti Contraenti avrà notificato per iscritto la sua intenzione di porvi termine.

IN FEDE DI CHE i rispettivi Plenipotenziari hanno firmato il presente Trattato e vi hanno apposto i loro sigilli.

FATTO in doppio esemplare nelle lingue italiana ed inglese, entrambe ugualmente autentiche, a Roma, il giorno due Febbraio mille novecento quarantotto.

Per il Governo Italiano

SFORZA

Per il Governo degli Stati Uniti d'America

JAMES CLEMENT DUNN

Article XIII

Commercial travelers representing nationals and companies of either Party engaged in business within the territories thereof shall, upon their entry into and departure from the territories of the other Party and during their sojourn therein, be accorded most-favored-nation treatment in respect of the customs and other matters, including, subject to the exceptions in paragraph 5 of Article XI, taxes and charges applicable to them, their samples, and the taking of orders, and regulations governing the exercise of their functions.

Article XIV

PROTOCOL

At the time of signing the Treaty of Friendship, Commerce and Navigation between the United States of America and the Italian Republic, the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered as integral parts of said Treaty:

1. The provisions of paragraph 2 of Article V, providing for the payment of compensation, shall extend to interests held directly or indirectly by nationals, corporations and associations of either High Contracting Party in property which is taken within the territories of the other High Contracting Party.

2. Rights and privileges with respect to commercial, manufacturing and processing activities accorded, by the provisions of the Treaty, to privately owned and controlled enterprises of either High Contracting Party within the territories of the other High Contracting Party shall extend to rights and privileges of an economic nature granted to publicly owned or controlled enterprises of such other High Contracting Party, in situations in which such publicly owned or controlled enteprises operate in fact in competition with privately owned and controlled enterprises. The preceding sentence shall not, however, apply to subsidies granted to publicly owned or controlled enterprises in connection with: (*a*) manufacturing or processing goods for government use, or supplying goods and services to the government for government use; or (*b*) supplying, at prices substantially below competitive prices, the needs of particular population groups for essential goods and services not otherwise practicably obtainable by such groups.

3. The concluding sentence of paragraph 1 of Article XVIII shall not be construed as applying to postal services.

4. The provisions of paragraph 2 (*a*) of Article I shall not be construed to extend to the practice of professions the members of which are designated by law as public officials.

5. The provisions of paragraph 2 of Article XI shall not be construed to affect measures taken by either High Contracting Party to safeguard military secrets.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Protocol and have affixed hereunto their seals.

DONE in duplicate, in the English and Italian languages, both equally authentic, at Rome this second day of February one thousand nine hundred forty-eight.

For the
Government of the United States
of America

JAMES CLEMENT DUNN

For the
Italian Government

SFORZA

PROTOCOLLO

All'atto della firma del Trattato di Amicizia, Commercio e Navigazione tra la Repubblica Italiana e gli Stati Uniti d'America, i sottoscritti Plenipotenziari, debitamente autorizzati dai loro rispettivi Governi, hanno inoltre concordato le seguenti disposizioni che saranno considerate come parte integrante del Trattato predetto:

1. Le disposizioni del paragrafo 2 dell'articolo V che dispongono il pagamento di indennizzo, si estenderanno ai diritti spettanti direttamente od indirettamente ai cittadini e alle persone giuridiche ed associazioni di ciascuna Alta Parte Contraente su beni che vengono espropriati entro i territori dell'altra Alta Parte Contraente.

2. I diritti e privilegi relativi ad attività commerciali, industriali e di trasformazione accordati dalle disposizioni del Trattato ad imprese di proprietà privata o controllate da privati di ciascuna Alta Parte Contraente entro i territori dell'altra Alta Parte Contraente, comprenderanno i diritti e privilegi di natura economica concessi ad imprese di proprietà pubblica o sotto controllo pubblico di detta altra Alta Parte Contraente nei casi in cui dette imprese di proprietà pubblica o sotto controllo pubblico operino di fatto in concorrenza con imprese di proprietà privata o controllate da privati. La frase che precede non può, peraltro, riferirsi a sussidi concessi ad imprese di proprietà pubblica o sotto controllo pubblico per: (*a*) fabbricazione o trasformazione di merci per uso governativo o forniture di merci e servizi al Governo per uso governativo; oppure (*b*) sopperire, a prezzi notevolmente inferiori ai prezzi di concorrenza, ai bisogni di determinate categorie di popolazione rispetto a merci e servizi essenziali che non sarebbero di fatto altrimenti ottenibili da tali categorie.

3. La frase finale del paragrafo 1 dell'Articolo XVIII non sarà interpretata come riferentesi ai servizi postali.

4. Le disposizioni del paragrafo 2 (*a*) dell'Articolo I non saranno interpretati nel senso di estendersi all'esercizio di professioni i cui membri sono designati per legge come pubblici ufficiali.

5. Le disposizioni del paragrafo 2 dell'Articolo XI non saranno interpretate nel senso di aver effetto sulle misure adottate da ciascuna Alta Parte Contraente per salvaguardare segreti militari.

IN FEDE DI CHE i rispettivi Plenipotenziari hanno firmato il presente Protocollo e vi hanno apposto i loro sigilli.

FATTO in duplice copia nelle lingue italiana ed inglese, entrambe ugualmente autentiche, in Roma, il giorno due Febbraio millenovecentoquarantotto.

Per il
Governo Italiano

SFORZA

Per il
Governo degli Stati Uniti d'America

JAMES CLEMENT DUNN

by or to it during a previous representative period, due consideration being given to any special factors affecting the trade in such product.

4. Either Party may impose prohibitions or restrictions on sanitary or other customary grounds of a non-commercial nature, or in the interest of preventing deceptive or unfair practices, provided such prohibitions or restrictions do not arbitrarily discriminate against the commerce of the other Party.

5. Nationals and companies of either Party shall be accorded national treatment and most-favored-nation treatment by the other Party with respect to all matters relating to importation and exportation.

6. The provisions of the present Article shall not apply to advantages accorded by either Party:

(a) to products of its national fisheries;

(b) to adjacent countries in order to facilitate frontier traffic; or

(c) by virtue of a customs union or a free trade area of which either Party may become a member, or of an interim agreement leading to the formation of a customs union or free trade area which either Party may enter into, after having informed the other Party of its plans in order to afford such other Party adequate opportunity to express its views thereon. The interim agreement referred to in the preceding sentence shall include a plan and definite schedule for the formation of a customs union or free trade area.

ADDITIONAL PROTOCOL

In view of the grave economic difficulties facing Italy now and prospectively as a result of *inter alia*, the damage caused by the late military operations on Italian soil; the looting perpetrated by the German forces following the Italian declaration of war against Germany; the present inability of Italy to supply, unassisted, the minimum needs of its people or the minimum requirements of Italian economic recovery; and Italy's lack of monetary reserves; at the time of signing the Treaty of Friendship, Commerce and Navigation between the United States of America and the Italian Republic, the undersigned Plenipotentiaries, duly authorized by their respective Governments, have further agreed on the following provisions, which shall be considered as integral parts of said Treaty:

1. The provisions of paragraph 3 of Article XIV of the abovementioned Treaty and that part of paragraph 4 of the same Article which relates to the allocation of shares, shall not obligate either High Contracting Party with respect to the application of quantitative restrictions on imports and exports:

(*a*) that have effect equivalent to exchange restrictions authorized in conformity with section 3 (*b*) of Article VII of the Articles of Agreement of the International Monetary Fund;

(*b*) that are necessary to secure, during the early post-war transitional period, the equitable distribution among the several consuming countries of goods in short supply;

(*c*) that are necessary in order to effect, for the purchase of imports, the utilization of accumulated inconvertible currencies; or

(*d*) that have effect equivalent to exchange restrictions permitted under section 2 of Article XIV of the Articles of Agreement of the International Monetary Fund.

2. The privileges accorded to either High Contracting Party by subparagraphs (*c*) and (*d*), paragraph 1, of the present Protocol, shall be limited to situations in which (*a*) it is necessary for such High Contracting Party to apply restrictions on imports in order to forestall the imminent threat of, or to stop, a serious decline in the level of its monetary reserves or, in the case of very low monetary reserves, to achieve a reasonable rate of increase in its reserves, and (*b*) the application of the necessary restrictions in the manner permitted by the aforesaid paragraph 1 will yield such High Contracting Party a volume of imports above the maximum level which would be possible if such restrictions were applied in the manner prescribed in paragraphs 3 and 4 of Article XIV of the Treaty.

PROTOCOLLO ADDIZIONALE

In considerazione delle gravi difficoltà economiche in cui versa attualmente l'Italia e di quelle che sono da prevedersi a causa, *fra l'altro*, dei danni causati a suo tempo dalle operazioni militari su territorio italiano, dei saccheggi perpetrati dalle forze tedesche a seguito della dichiarazione di guerra dell'Italia contro la Germania, della presente impossibilità nella quale si trova l'Italia di sopperire, senza aiuti, al fabbisogno minimo della sua popolazione o alle esigenze minime della ripresa economica italiana nonchè della mancanza di riserve monetarie dell'Italia; all'atto della firma del Trattato di Amicizia, Commercio e Navigazione fra la Repubblica Italiana e gli Stati Uniti d'America, i sottoscritti Plenipotenziari, debitamente autorizzati dai loro rispettivi Governi, hanno inoltre concordato le seguenti disposizioni che saranno considerate come parti integranti del predetto Trattato:

1. Le disposizioni del paragrafo 3 dell'Articolo XIV del predetto Trattato e quella parte del paragrafo 4 dello stesso Articolo che si riferisce all'assegnazione di contingenti, non vincoleranno nessuna delle due Alte Parti Contraenti circa l'applicazione di restrizioni quantitative alle importazioni ed esportazioni:

a) che hanno effetto equivalente a restrizioni valutarie autorizzate in conformità con la Sezione 3 (*b*) dell'Articolo VII degli Accordi sul Fondo Monetario Internazionale;

b) che sono necessarie per assicurare, durante il primo periodo transitorio post-bellico, una equa distribuzione fra le diverse nazioni consumatrici delle merci di scarsa disponibilità;

c) che sono necessarie allo scopo di rendere possibile, per l'acquisto di prodotti da importare, l'utilizzazione di divise inconvertibili accumulatesi; oppure

d) che hanno un effetto equivalente alle restrizioni valutarie consentite dalla Sezione 2 dell'Articolo XIV degli Accordi sul Fondo Monetario Internazionale.

2. I privilegi accordati a ciascuna Alta Parte Contraente dai comma (*c*) e (*d*) del paragrafo 1 del presente Protocollo, saranno limitati a situazioni nelle quali: (*a*) sia necessario per detta Alta Parte Contraente di applicare restrizioni sulle importazioni allo scopo di sventare la minaccia immediata di un serio declino nel livello delle proprie riserve monetarie o di arrestarlo, oppure, nel caso di riserve monetarie molto basse, di raggiungere una ragionevole misura di accrescimento delle proprie riserve e (*b*) l'applicazione delle necessarie restrizioni nei modi consentiti dal predetto paragrafo 1, permetterebbe a tale Alta Parte Contraente un volume di importazioni superiore al livello massimo che sarebbe possibile qualora tali restrizioni fossero invece applicate nel modo prescritto dai paragrafi 3 e 4 dell'Articolo XIV del Trattato.

Article XVI

1. Products of either Party shall be accorded within the territories of the other Party, national treatment and most-favored-nation treatment in all matters affecting internal taxation, sale, distribution, storage and use.

2. Articles produced by nationals and companies of either Party within the territories of the other Party, or by companies of the latter Party controlled by such nationals and companies, shall be accorded therein treatment no less favorable than that accorded to like articles of national origin by whatever person or company produced, in all matters affecting exportation, taxation, sale, distribution, storage and use.

3. The Parties recognize that the unqualified term "coffee" should be used solely to designate the coffee bean or consumable preparations made from the coffee bean, and they agree to maintain their present practices for preventing the commercial usage of that term in a manner which is deceptive by reason of actual misrepresentations or otherwise.

Article XVII

3. During the current transitional period of recovery from the recent war, the provisions of Article XVI, paragraph 1, of the Treaty shall not prevent the application by either High Contracting Party of needed controls to the internal sale, distribution or use of imported articles in short supply, other than or different from controls applied with respect to like articles of national origin. However, no such controls over the internal distribution of imported articles shall be (*a*) applied by either High Contracting Party in such a manner as to cause unnecessary injury to the competitive position within its territories of the commerce of the other High Contracting Party, or (*b*) continued longer than required by the supply situation.

4. Neither High Contracting Party shall impose any new restriction under paragraph 1 of the present Protocol without having given the other High Contracting Party notice thereof which shall, if possible, be not less than thirty days in advance and shall not in any event be less than ten days in advance. Each High Contracting Party shall afford to the other High Contracting Party opportunity for consultation at any time concerning the need for and the application of restrictions to which such paragraph relates as well as concerning the application of paragraph 3; and either High Contracting Party shall have the right to invite the International Monetary Fund to participate in such consultation, with reference to restrictions to which subparagraphs (*a*), (*c*) and (*d*) of paragraph 1 relate.

5. Whenever exchange difficulties necessitate that pursuant to Article XXIV, paragraph 1 (*f*), the Italian Government regulate the withdrawals provided for in Article V, paragraph 2, the Italian Government may give priority to applications made by nationals, corporations and associations of the United States of America to withdraw compensation received on account of property acquired on or before December 8, 1934, or, if subsequently acquired:

(*a*) in the case of immovable property, if the owner at the time of acquisition had permanent residence outside Italy, or, if a corporation or association, had its center of management outside Italy;

(*b*) in the case of shares of stock, if at the time of acquisition Italian laws and regulations permitted such shares to be traded outside Italy;

(*c*) in the case of bank deposits, if carried on free account at the time of taking;

(*d*) in any case, if the property was acquired through importing foreign exchange, goods or services into Italy, or through reinvestments of profits or accrued interest from such imports whenever made.

The Italian Government undertakes to grant every facility to assist applicants in establishing their claims for the purposes of this paragraph; and to accept evidence of probative value as establishing, in the absence of preponderant evidence to the contrary, a priority claim.

6. Whenever a multiple exchange rate system is in effect in Italy, the rate of exchange which shall be applicable for the purposes of Article V, paragraph 2, need not be the most favorable of all rates applicable to international financial transactions of whatever nature; provided, however, that the rate applicable will in any event permit the recipient of compensation actually

3. Durante l'attuale periodo transitorio di ripresa dalla recente guerra, le disposizioni del paragrafo 1 dell'Articolo XVI del Trattato non impediranno l'applicazione da parte di ciascuna Alta Parte Contraente di necessari controlli all'interno sulla vendita, distribuzione od uso di prodotti importati di scarsa disponibilità, in aggiunta a quelli o diversi da quelli che vengono applicati a prodotti uguali di origine nazionale. Comunque nessun controllo di tal genere sulla distribuzione all'interno di prodotti importati: (*a*) sarà applicato da ciascuna Alta Parte Contraente in modo da arrecare senza necessità un danno ai rapporti di concorrenza, entro i propri territori, all'attività commerciale dell'altra Alta Parte Contraente; oppure (*b*) continuerà più a lungo di quanto sia richiesto dal grado di disponibilità dei prodotti.

4. Nessuna delle due Alte Parti Contraenti imporrà qualsiasi nuova restrizione in base al paragrafo 1 del presente Protocollo senza averne dato all'altra Alta Parte Contraente un preavviso che sarà, se possibile, non inferiore a trenta giorni ma in nessun caso inferiore a dieci giorni. Ciascuna Alta ParteContraente concederà in qualsiasi tempo all'altra Alta Parte Contraente facoltà di consultazione circa la necessità e l'applicazione delle restrizioni cui si riferisce detto paragrafo, come pure circa l'applicazione del paragrafo 3; e ciascuna Alta Parte Contraente avrà il diritto di invitare il Fondo Monetario Internazionale a partecipare a tali consultazioni relative alle restrizioni cui si riferiscono i commi (*a*), (*c*) e (*d*) del paragrafo 1.

5. Qualora difficoltà valutarie rendano necessario che in virtù del paragrafo 1 (*f*) dell'Articolo XXIV, il Governo italiano regoli i ritiri disposti nel paragrafo 2 dell'Articolo V, il Governo italiano potrà dare priorità alle domande presentate da cittadini e da persone giuridiche ed associazioni degli Stati Uniti d'America di ritirare gli indennizzi ricevuti per beni acquistati l'8 dicembre 1934 o anteriormente, oppure, se acquistati posteriormente:

a) nel caso di beni immobili, qualora il proprietario avesse avuto, al momento dell'acquisto, residenza permanente fuori d'Italia o, nel caso di persone giuridiche ed associazioni, se avevano la loro sede direttiva fuori d'Italia;

b) nel caso di titoli azionari, qualora al momento dell'acquisto le leggi ed i regolamenti italiani avessero permesso che dette azioni fossero negoziate fuori d'Italia;

c) nel caso di depositi bancari, qualora mantenuti in conti liberi al momento dell'esproprio; e

d) in ogni caso, qualora i beni fossero stati acquistati mediante importazione in Italia di valuta estera, merci o servizi, o mediante reinvestimenti di profitti o di interessi maturati da tali importazioi, indipendentemente dalla data in cui essi vennero effettuati.

Il Governo italiano si impegna di concedere ogni facilitazione per aiutare i richiedenti a determinare quale sia la loro esatta situazione per gli scopi del presente paragrafo; e in mancanza di prove preponderanti al contrario di accettare come comprova di un diritto di priorità documentazioni e testimonianze aventi valore probativo.

6. Qualora sia in vigore in Italia un sistema di tassi di cambio plurimi, il tasso di cambio che sarà applicabile per gli scopi del paragrafo 2 dell'Articolo V non sarà necessariamente il più favorevole di tutti i tassi applicabili ad operazioni finanziarie internazionali di qualsiasi natura; purchè, tuttavia, il tasso applica-

Article XVIII

1. The two Parties agree that business practices which restrain competition, limit access to markets or foster monopolistic control, and which are engaged in or made effective by one or more private or public commercial enterprises or by combination, agreement or other arrangement among such enterprises, may have harmful effects upon commerce between their respective territories. Accordingly, each Party agrees upon the request of the other Party to consult with respect to any such practices and to take such measures as it deems appropriate with a view to eliminating such harmful effects.

2. The Parties recognize that conditions of competitive equality should be maintained in situations in which publicly owned or controlled trading or manufacturing enterprises of either Party engage in competition, within the territories thereof, with privately owned and controlled enterprises of nationals and companies of the other Party. Accordingly, such private enterprises shall, in such situations, be entitled to the benefit of any special advantages of an economic nature accorded such public enterprises, whether in the nature of subsidies, tax exemptions or otherwise. The foregoing rule shall not apply, however, to special advantages given in connection with: (a) manufacturing goods for government use, or supplying goods and services to the government for government use; or (b) supplying, at prices substantially below competitive prices, the needs of particular population groups for essential goods and services not otherwise practically obtainable by such groups; nor shall it apply to activities in connection with

government

DEPARTMENT OF STATE INSTRUCTION

to realize the full economic value thereof in United States dollars. In case dispute arises as to the rate applicable, the rate shall be determined by agreement between the High Contracting Parties.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Protocol and have affixed hereunto their seals.

DONE in duplicate, in the English and Italian languages, both equally authentic, at Rome, this second day of February one thousand nine hundred forty-eight.

For the
Government of the United States
of America

JAMES CLEMENT DUNN

For the
Italian Government

SFORZA

bile permetta in ogni circostanza a chi riceve l'indennizzo di realizzarne effettivamente il pieno valore economico in dollari degli Stati Uniti. In caso sorgano controversie circa il tasso da applicare, il tasso sarà determinato mediante accordo fra le Alte Parti Contraenti.

IN FEDE DI CHE i rispettivi Plenipotenziari hanno firmato il presente Protocollo e vi hanno apposto i loro sigilli.

FATTO in duplice copia, nelle lingue italiana ed inglese, entrambe ugualmente autentiche, a Roma, il giorno due Febbraio millenovecentoquarantotto.

Per il
Governo Italiano

SFORZA

Per il
Governo degli Stati Uniti d'America

JAMES CLEMENT DUNN

Article XIX

1. Between the territories of the two Parties there shall be freedom of commerce and navigation.

2. Vessels under the flag of either Party, and carrying the papers required by its law in proof of nationality, shall be deemed to be vessels of that Party both on the high seas and within the ports, places and waters of the other Party.

3. Vessels of either Party shall have liberty, on equal terms with vessels of the other Party and on equal terms with vessels of any third country, to come with their cargoes to all ports, places and waters of such other Party open to foreign commerce and navigation. Such vessels and cargoes shall in all respects be accorded national treatment and most-favored-nation treatment within the ports, places and waters of such other Party; but each Party may reserve exclusive rights and privileges to its own vessels with respect to the coasting trade, inland navigation and national fisheries.

4. Vessels of either Party shall be accorded national treatment and most-favored-nation treatment by the other Party with respect to the right to carry all products that may be carried by vessel to or from the territories of such other Party; and such products shall be accorded treatment no less favorable than that accorded like products carried in vessels of such other Party, with respect to: (a) duties and charges of all kinds, (b) the administration of the customs, and (c) bounties, drawbacks and other privileges of this nature.

5. Vessels of either Party that are in distress shall be permitted to take refuge in the nearest port or haven of the other Party,

Party, and shall receive friendly treatment and assistance.

6. The term "vessels", as used herein, means all types of vessels, whether privately owned or operated, or publicly owned or operated; but this term does not, except with reference to paragraphs 2 and 5 of the present Article, include fishing vessels or vessels of war.

Article XX

of professors, students, and professional and academic personnel between the territories of the United States of America and of Italy, and agrees to discuss at a later time the possibility of agreements designed to establish arrangements whereby such interchange may be facilitated and whereby the cultural bonds between the two peoples may generally be strengthened.

Accept, Excellency, ecc.".

Ho l'onore d'informare V.E. che il Governo italiano s'impegna dal canto suo a stimolare e promuovere relazioni culturali, compreso lo scambio di professori, di studenti e di membri di corpi accademici, ed a discutere le possibilità di accordi culturali fra i nostri due Governi secondo i concetti espressi nella nota di V.E.

Mi è grata l'occasione, Eccellenza, di rinnovarLe l'espressione della mia più alta considerazione.

SFORZA

A S.E. JAMES CLEMENT DUNN,
Ambasciatore degli Stati Uniti d'America
Roma

Translation

THE MINISTER OF FOREIGN AFFAIRS

Rome, *February 2, 1948*

EXCELLENCY:

I have the honor to refer to Your Excellency's note of this date, which reads as follows:

[For the English language text of this note, as signed, see p. 53.]

I have the honor to inform Your Excellency that the Italian Government will undertake, for its part, to stimulate and foster cultural relations, including the interchange of professors, students and academic personnel, and to discuss the possibility of cultural agreements between our two Governments in accordance with the ideas expressed in Your Excellency's note.

I take pleasure in availing myself of this occasion, Excellency, to renew to you the assurances of my highest consideration.

SFORZA

To His Excellency
JAMES CLEMENT DUNN,
Ambassador of the United States of America
Rome

The American Ambassador to the Italian Minister of Foreign Affairs

EMBASSY OF THE
UNITED STATES OF AMERICA

F. O. No. 3170

EXCELLENCY,

I have the honor to refer to paragraph 3(c) of Article XXIV of the Treaty of Friendship, Commerce and Navigation between the United States of America and the Italian Republic signed at Rome on February 2, 1948, [1] and to inform Your Excellency that it is the understanding of the Government of the United States of America that the provisions of the aforesaid Treaty relating to the treatment of goods do not preclude action by either of the parties thereto which is required or specifically permitted by the General Agreement on Tariffs and Trade [2] or by the Havana Charter for an International Trade Organization, [3] during such time as the party applying such measures is a contracting party to the General Agreement or is a member of the International Trade Organization, as the case may be.

I shall be glad if Your Excellency will confirm this understanding on behalf of the Government of the Italian Republic.

Accept, Excellency, the renewed assurances of my highest consideration.

JAMES CLEMENT DUNN

ROME, *July 26, 1949.*

His Excellency
Count CARLO SFORZA
Minister of Foreign Affairs
Rome

The Italian Minister of Foreign Affairs to the American Ambassador

MINISTERO DEGLI AFFARI ESTERI

ROMA, *li 26 luglio 1949*

ECCELLENZA,

ho l'onore di riferirmi alla Sua lettera in data odierna con cui Ella, richiamandosi al paragrafo 3 (c) dell'art. XXIV del Trattato di Amicizia, Commercio e Navigazione fra gli Stati Uniti d'America e la Repubblica Italiana, firmato a Roma il 2 febbraio 1948, mi comunica che é intenzione del Governo degli Stati Uniti d'America che le disposizioni del predetto Trattato relative al trattamento delle merci non

[1] See *ante*, p. 38.
[2] Dated Oct. 30, 1947. Treaties and Other International Acts Series 1700.
[3] Department of State publication 3117.

Article XXI

1. The present Treaty shall not preclude the application of measures:

(a) regulating the importation or exportation of gold or silver;

(b) relating to fissionable materials, to radioactive by-products of the utilization or processing thereof, or to materials that are the source of fissionable materials;

(c) regulating the production of or traffic in arms, ammunition and implements of war, or traffic in other materials carried on directly or indirectly for the purpose of supplying a military establishment;

(d) necessary to fulfill the obligations of a Party for the maintenance or restoration of international peace and security, or necessary to protect its essential security interests; and

(e) denying to any company in the ownership or direction of which nationals of any third country or countries have directly or indirectly the controlling interest, the advantages of the present Treaty, except with respect to recognition of juridical status and with respect to access to courts.

2. The most-favored-nation provisions of the present Treaty relating to the treatment of goods shall not apply to advantages accorded by the United States of America or its Territories and possessions to one another, to the Republic of Cuba, to the Republic of the Philippines, to the Trust Territory of the

Pacific

precludano ai contraenti alcuna azione che sia richiesta o specificatamente consentita dall'Accordo Generale sulle tariffe e sul commercio o dalla Carta dell'Avana per una Organizzazione Internazionale del Commercio, limitatamente al tempo in cui la parte che applichi tali misure sia aderente all'Accordo Generale o membro dell'Organizzazione Internazionale del Commercio.

Ho l'onore di comunicarLe che il Governo italiano é d'accordo su quanto precede.

Voglia gradire, Eccellenza, i sensi della mia alta considerazione

SFORZA

S. E. JAMES CLEMENT DUNN
Ambasciatore degli Stati Uniti d'America
Roma

Translation

MINISTRY OF FOREIGN AFFAIRS

ROME, *July 26, 1949*

EXCELLENCY:

I have the honor to refer to your letter dated today in which, referring to paragraph 3 (c) of Article XXIV of the Treaty of Friendship, Commerce and Navigation between the United States of America and the Italian Republic, signed at Rome on February 2, 1948, you inform me that it is the understanding of the Government of the United States of America that the provisions of the aforesaid Treaty relating to the treatment of goods do not preclude action by either of the parties thereto which is required or specifically permitted by the General Agreement on Tariffs and Trade or by the Havana Charter for an International Trade Organization, during such time as the party applying such measures is a contracting party to the General Agreement or is a member of the International Trade Organization.

I have the honor to inform you that the Italian Government agrees to the foregoing.

Accept, Excellency, the assurances of my high consideration.

SFORZA

His Excellency
JAMES CLEMENT DUNN
Ambassador of the United States of America
Rome

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Article XXII

1. The term "national treatment" means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of such Party.

2. The term "most-favored-nation treatment" means treatment accorded with the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of any third country.

3. As used in the present Treaty, the term "companies" means corporations, partnerships, companies and other associations, whether or not with limited liability and whether or not for pecuniary profit. Companies constituted under the applicable laws and regulations within the territories of either Party shall be deemed companies thereof and shall have their juridical status recognized within the territories of the other Party.

4. National treatment accorded under the provisions of the present Treaty to companies of Nicaragua shall, in any State, Territory or possession of the United States of America, be the treatment accorded therein to companies created or organized in other States, Territories, and possessions of the United States of America.

Article XXIII